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**DEPARTMENT OF DEFENSE**

**GENERAL SERVICES ADMINISTRATION**

**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Part 17**

[FAC 2005-91; FAR Case 2016-006; Item VII; Docket No. 2016-0006, Sequence No. 1]

**RIN 9000-AN24**

**Federal Acquisition Regulation; Amendment Relating to**

**Multi-year Contract Authority for Acquisition of Property**

**AGENCIES:** Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

**ACTION:** Final rule.

**SUMMARY:** DoD, GSA, and NASA are issuing a final rule amending the Federal Acquisition Regulation (FAR) to implement a section of the National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2016, to require that "significant" savings would be achieved by entering into a multi-year contract.

**DATES:** Effective: [Insert date 30 days after date of publication in the FEDERAL REGISTER.]

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael O. Jackson, Procurement Analyst, at 202-208-4949, for clarification of content. For information pertaining to status or publication schedules, contact the Regulatory Secretariat at 202-501-4755. Please cite FAC 2005-91, FAR Case 2016-006.

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

DoD, GSA, and NASA are amending FAR subpart 17.1 to implement section 811 of the NDAA for FY 2016 (Pub. L. 114-92). Section 811 amended subsection (a)(1) of 10 U.S.C. 2306b by striking "substantial" and inserting "significant." This rule makes conforming changes at FAR 17.105-1(b)(1) to state that the head of an agency may enter into a multi-year contract for supplies, if the use of such a contract will result in significant savings of the total estimated costs of carrying out the program through annual contracts. This change applies to the DoD, NASA, and the Coast Guard.

### **II. Publication of this final rule for public comment is not required by statute**

Publication of proposed regulations, 41 U.S.C. 1707, is the statute which applies to the publication of the Federal Acquisition Regulation. Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure, or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to

be published for public comment, because it addresses an internal decision by the head of agency to enter into a multi-year contract for supplies if certain criteria are met. These requirements affect only the internal operating procedures of the Government.

### **III. Executive Orders 12866 and 13563**

Executive Orders (E.O.s) 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

### **IV. Regulatory Flexibility Act**

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision within the meaning of FAR 1.501-1 and 41 U.S.C. 1707 does not require publication for public comment.

## **V. Paperwork Reduction Act**

The rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. Chapter 35).

### **List of Subject in 48 CFR Part 17**

Government procurement.

Dated: September 19, 2016.

William F. Clark,  
Director,  
Office of Government-wide  
Acquisition Policy,  
Office of Acquisition Policy,  
Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA amend 48 CFR part 17 as set forth below:

**PART 17—SPECIAL CONTRACTING METHODS**

1. The authority citation for 48 CFR part 17 continues to read as follows:

**Authority:** 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

**17.105-1 [Amended]**

2. Amend section 17.105-1 by removing from paragraph (b)(1) "substantial" and adding "significant" in its place.

**BILLING CODE 6820-EP**

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